

1 **WO**

2
3
4
5
6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
8

9 William Richard Patton,

10 Plaintiff,

11 v.

12 Ann Ash, et al.,

13 Defendants.
14

No. CV-19-00209-TUC-RM

ORDER

15 Pending before the Court is Plaintiff's Subpoena Request Pursuant to Rule 45.
16 (Doc. 77.) Plaintiff requests permission pursuant to Federal Rule of Civil Procedure 45 to
17 issue a subpoena to Tucson Medical Center to obtain documents and photographs
18 pertaining to podiatry treatment he received. (*Id.*) Defendants have not responded to the
19 Request and the time for doing so has expired. LRCiv 7.2(c).

20 The Certificate of Service for the Subpoena Request indicates that Plaintiff
21 submitted it to institutional authorities for filing with the Court on June 22, 2021. (*See*
22 Doc. 77 at 2.) Thus, although the request was not filed until July 6, 2021, after the
23 expiration of the discovery deadline (*see* Doc. 76), the Subpoena Request is timely
24 pursuant to the prison mailbox rule. *See Bosley v. Valasco*, No. 1:14-cv-00049-MJS(PC),
25 2016 WL 1704159, at *4 (E.D. Cal. Apr. 28, 2016), *modified*, 2016 WL 2756590 (E.D.
26 Cal. May 12, 2016) (prisoner's subpoena request deemed timely when he placed it in the
27 institutional mail before the close of discovery) (citing *Houston v. Lack*, 487 U.S. 266
28 (1988); *Campbell v. Henry*, 614 F.3d 1056, 1059 (9th Cir. 2010)).

1 General Order 18-19 sets forth the procedural requirements for pro se litigants
2 who wish to serve subpoenas. Pro se litigants must (1) file a motion “in writing, (2) attach
3 a copy of the proposed subpoena, (3) set forth the name and address of the witness to be
4 subpoenaed and the custodian and general nature of any documents requested, and (4)
5 state with particularity the reasons for seeking the testimony and documents.” Gen. Ord.
6 18-19. Requests for subpoenas that do not comply with these requirements will be
7 denied. *See Withers v. Beecken Petty O’Keefe & Co.*, No. CV-17-03391-PHX-
8 DWL(JZB), 2019 WL 1153440, at *2 (D. Ariz. Mar. 13, 2019).

9 Plaintiff’s Request complies with these requirements. He has attached a copy of
10 the proposed subpoena and has set forth the nature of the documents he requests as well
11 as his reasons for seeking them. (Doc. 77-1.)

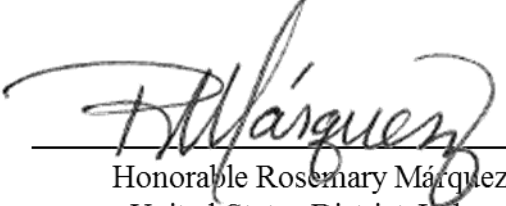
12 Accordingly,

13 **IT IS ORDERED** that the Subpoena Request Pursuant to Rule 45 (Doc. 77) is
14 **granted.**

15 **IT IS FURTHER ORDERED** that the Clerk of Court shall forward the subpoena
16 submitted by Plaintiff (Doc. 77-1) to the United States Marshal, and the United States
17 Marshal shall serve the subpoena.

18 Dated this 23rd day of July, 2021.

19
20
21
22
23
24
25
26
27
28


Honorable Rosemary Márquez
United States District Judge